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AMENDMENT AFTER FINAL
(37 C.F.R. 1.116)
EXPEDITED HANDLING
PATENT
HOL01 P-102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit : 3727
Examiner : Eugene Lhymn
Applicant : Jim Azzar
Serial No. : 10/659,861
Filing Date : September 11, 2003
Entitled : FOOD TRAY LINER

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

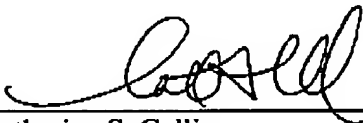
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Trademark Office on the date shown below:

Petition to Withdraw Finality.

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INCLUDING THIS TRANSMITTAL.

Dated: May 30, 2006.


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CSC:lmse
Enclosures

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Dear Sir:

PETITION TO WITHDRAW FINALITY

In response to the final Office Action mailed April 5, 2006, having a three-month period of response ending July 5, 2006, Applicant petitions that the finality of the Office Action be withdrawn.

REMARKS**FINALITY OF REJECTION:**

The Examiner states that "Applicant's amendment necessitated the new ground(s) of rejection."

Applicant respectfully traverses. Original Claim 3 was previously rejected in the first Office Action mailed October 19, 2005, over U.S. Patent No. 5,226,763 to Colombo. In Applicant's Response dated January 19, 2006, Applicant traversed and rewrote Claim 3 in independent form. Claim 3 now stands rejected over new art, namely U.S. Patent No. 5,781,374 to Walker. However, Claim 3 was merely rewritten in independent form. Therefore, the amendment to Claim 3 did not necessitate the new grounds of rejection; instead, Applicant established that the prior rejection, which was based on U.S. Patent No. 5,266,763 to Colombo,

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was without merit. Therefore, Applicant's amendment to Claim 3 did not necessitate the new grounds of rejection.

Further, Claims 11-15, which were previously rejected in the Office Action mailed October 15, 2005, based on U.S. Patent No. 5,266,763 to Colombo, were not amended. Instead, their rejection was traversed. Claims 11-15 are now similarly rejected on new grounds, namely as being anticipated by U.S. Patent No. 5,781,374 to Walker. Therefore, the Examiner's new grounds of rejection of Claims 11-15 was also not based on Applicant's amendments. Accordingly, Applicant respectfully submits that the finality of the Office Action is improper and respectfully request withdrawal of the finality of this Office Action.

The Commissioner is hereby authorized to charge Deposit Account No. 22-0190 for a Petition fee of \$130.00, if required. Should the Commissioner grant the Petition, Applicant respectfully requests a refund by crediting the deposit account the amount of the fee. A duplicate copy of this Petition is enclosed.

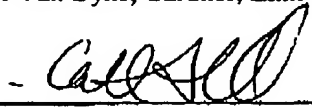
Should the Examiner have any questions or comments, the Examiner is invited to contact the undersigned attorney at (616) 975-5506.

Respectfully submitted,

JIM AZZAR

By: Van Dyke, Gardner, Linn & Burkhardt, LLP

May 30, 2006
Date


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